



An  
Bord  
Pleanála

## Inspector's Report ZE06D.ZE0002

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<b>Development</b>	Five amendments to the Cherrywood SDZ Planning Scheme relating to changes prompted by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines and the revised sequencing of retail development in the town centre.
<b>Location</b>	Cherrywood, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	n/a
<b>Applicant(s)</b>	Dun Laoghaire-Rathdown County Council
<b>Type of Application</b>	Amendment of SDZ Planning Scheme
<b>Planning Authority Decision</b>	n/a
<b>Type of Appeal</b>	n/a
<b>Appellant(s)</b>	n/a
<b>Observer(s)</b>	n/a

**Date of Site Inspection**

1<sup>st</sup> March 2017

**Inspector**

Hugh D. Morrison

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## 1.0 Introduction

- 1.1. Following a request from Dun Laoghaire-Rathdown County Council, the Government designated lands at Cherrywood as a Special Development Zone (SDZ) in 2010. These lands lie largely between the N11, to the north east, and the M50, to the south west. They are located some 8 km to the south of Dun Laoghaire town centre and they extend over an area of c. 360 hectares.
- 1.2. Subsequently, Dun Laoghaire-Rathdown County Council, as the designated development agency for the SDZ, prepared a Planning Scheme for the majority of the lands comprised in the SDZ<sup>1</sup>. This Scheme was the subject of an appeal to the Board (ZD06D.ZD2010) and, following an oral hearing, it was modified by means of a Board Order that was issued on 25<sup>th</sup> April 2014.
- 1.3. Under Section 170A sub-section (1) of the Planning and Development Act, 2000 (as amended) (hereafter referred to as the Act), Dun Laoghaire-Rathdown County Council has now submitted an application to the Board (ZE06D.ZE0002) to amend the approved Planning Scheme. This application comprises the following documents:
  - A cover letter dated 12<sup>th</sup> January 2017,
  - The proposed amendments numbered 1 – 5,
  - A report to inform SEA screening,
  - A report to inform AA screening, and
  - A background paper.

## 2.0 The Process

- 2.1 The process whereby amendments to a planning scheme for an SDZ can be made is set out in Section 170A of the Planning and Development Act, 2000 – 2015. I set out below my understanding of this process.

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<sup>1</sup> Map 1.4 of the Planning Scheme depicts the two sets of boundaries in this respect. Essentially, the existing residential development within the SDZ is excluded from the Planning Scheme.

2.2 Under sub-section (1) of this Section, a planning authority may make an application to the Board to amend a planning scheme. Under sub-section (2), the Board shall make a decision as to whether or not the proposed amendment constitutes a material change to the planning scheme. If such an amendment would lead to changes that would only be minor in nature, then, provided there is no need for SEA or AA, the Board may, under sub-section (4)(a), approve this amendment to the planning scheme.

2.3 If the proposed amendment would constitute a material change to the planning scheme, then sub-section (4)(b) becomes pivotal. Before the Board approves such an amendment, or an alternative amendment of no greater significance, the provisions of the following sub-sections shall be complied with.

- Under sub-section (5), the Board shall screen the proposed amendment, or its alternative, for SEA and AA. If SEA and/or AA are required, then under sub-section (6)(b) the planning authority shall be required to undertake preparation of the same.
- Under sub-section (7), the planning authority shall be required to undertake a notification and consultation exercise as set out in this sub-section. Thereafter, under sub-section (8), the planning authority shall prepare a report on the submissions and observations received as a consequence of this exercise. The said report shall be prepared in accordance with the provisions set out in sub-section (9) and the Board shall subsequently, under sub-section 10, have regard to this report.
- Under sub-section (4)(b) itself, the Board shall determine whether or not the proposed amendment would come within the criteria set out in sub-section (3)(b). If it would do so, then the Board may approve this amendment or its alternative. If it would not do so, then under sub-section (3)(a)<sup>2</sup>, the planning authority shall be required to amend the planning scheme in accordance with the procedures set out in Section 169 for the making of a planning scheme.

2.4 Under sub-section (11), subject to any SEA and/or AA obligations, if the Board has determined to make the proposed amendment or its alternative, under sub-section

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<sup>2</sup> This sub-section was the subject of an amendment under Section 5 of The Courts Act 2016.

(4), then the planning scheme shall be so amended and the planning authority notified accordingly. If sub-section (7) was activated, then all those who made submissions or observations shall likewise be notified.

### 3.0 The Proposal

3.1. The first four of the five proposed amendments are prompted by the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, which were issued in December 2015, and Circular PL 11/2016 APH 5/2016, entitled “Ensuring Delivery of Build-To-Rent Housing Projects”, dated 19<sup>th</sup> October 2016. These amendments relate to the numbers of dwellings in the town and village centres and the mix of dwellings in these centres and the residential areas designated as Res 3 and Res 4, wherein higher densities are envisaged. The fifth proposed amendment is prompted by work on the emerging Urban Form Development Framework (UFDF) for Cherrywood town centre. This amendment relates to sequencing of retail development in this town centre. All of these amendments are summarised below.

3.2. **Proposed amendment 1** would entail the deletion of Specific Objective PD 5, which is one of four Specific Objectives in Section 2.7.2, entitled “Residential Density Range and Housing Mix”. This Objective states the following:

*The floor areas of the housing units shall comply with the current County Development Plan standards and requirements. In all cases the planning application shall demonstrate that the mix of units proposed in any residential development is suitable for life long living.*

In its place the following new Specific Objective PD 5 would be inserted:

*The floor areas of the housing units shall comply with the current County Development Plan standards and requirements or any relevant Specific Planning Policy Requirements (SPPR) contained in, Section 28, Ministerial Guidelines where these differ from the standards and requirements of the County Development Plan.*

3.3. **Proposed amendment 2** would entail the insertion of the following paragraph after the second paragraph in Section 2.6, entitled “Scale of Development within Mixed Use Development Areas”:

*Subject to adhering to the min-max gross residential floorspace sqm set out in Tables 2.2 and 2.3 of the Planning Scheme, planning permission may be granted for apartment schemes which comply with the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” 2015 (as amended as per Circular PL 11/2016 APH 5/2016, October 2016, or as subsequently amended). In this regard, any reference to “No. of units” indicated in both tables and text throughout the Planning Scheme for the town centre and village centres are indicative only. The number of residential units may increase or decrease provided that the overall min-max quantum of residential floorspace for the town and village centres set out in Tables 2.2 and 2.3 are adhered to. Note: Reference in the Planning Scheme to min-max number of residential units outside the town and village centres will continue to apply. Gross residential floorspace includes the floor area of the individual apartments and the communal rooms and circulation areas associated directly with the residential development. It does not include the private open space/balconies associated with individual apartments.*

The third paragraph in Section 2.6.2, entitled “Town Centre and Village Centre”, would be deleted. This paragraph states the following:

*For the purposes of residential development floor area, apartment units in mixed use areas were applied with an average of 120 sqm gross per unit. This figure includes circulation and private open space.*

3.4. **Proposed amendment 3** would entail consequential changes to several tables and text arising from proposed amendments 1 and 2. These changes are identified below.

**Table 2.2** is entitled “Overall Development Quantum Range”. Under the development type “residential”, the min quantum would rise by 346, from 5,850 to c. 6,196 units, and the max quantum would rise by 450, from 8,336 to c. 8,786 units.

**Table 2.3** is entitled “Town and Village Centre Development Quantum Ranges”. The column in this Table labelled “Min/Max No. Residential Units” would be re-labelled “Min/Max Gross Residential Floorspace Sqm”. Thus, the following specific changes would arise:

- Cherrywood town centre: From 1,000/1,250 units to 120,000/150,000 sqm.
- Tully village centre: From 100/150 units to 12,000/18,000 sqm.
- Lehaunstown village centre: From 75/100 units to 9,000/12,000 sqm.

- Priorsland village centre: From 75/100 units to 9,000/12,000 sqm.
- Max totals: From 1,250/1,600 units to 150,000/192,000 sqm.

**Table 2.9** is entitled “Residential Development Density Ranges and Development Yield”. Within this Table the town and village centres are referred to as “Mixed Use Areas”. The combined min no. of units in these Areas would rise by 346, from 1,250 to 1,596, and the combined max no. of units would rise by 450, from 1,600 to 2,050. The knock-on effect of these increases is reflected in the revised total min and max nos. of units which are the same as those cited above in Table 2.2.

The increases in the nos. of units within each of the mixed use areas is reflected in the changes to the tables referred to below.

**Table 6.1.1** is entitled “Development Type and Quantum for Development Area 1 Lehaunstown”. In the village centre, the min no. of units would rise by 20, from 75 to 95, and the max no. of units would rise by 30, from 100 to 130. These increases would be reflected in the consequential changes to the total min and max nos. of units for Lehaunstown as a whole.

**Table 6.2.1** is entitled “Development Type and Quantum for Development Area 2 Cherrywood”. In the town centre, the min no. of units would rise by 276, from 1,000 to 1,276, and the max no. of units would rise by 350, from 1,250 to 1,600. These increases would be reflected in the consequential changes to the total min and max nos. of units for Cherrywood as a whole.

**Table 6.2.2** is entitled “Breakdown of Development Quantum for Sites TC1, TC2, TC3 and TC4 Cherrywood Town Centre”.

- In TC1, the min no. would rise by 55, from 200 to 255, and the max no. would rise by 76, from 270 to 346,
- In TC2, the min no. would rise by 65, from 235 to 300, and the max no. would rise by 84, from 300 to 384,
- In TC3, the min no. would rise by 62, from 225 to 287, and the max no. would rise by 78, from 280 to 358, and
- In TC4, the min no. would rise by 94, from 340 to 434, and the max no. would rise by 112, from 400 to 512.



**Table 6.3.1** is entitled “Development Type and Quantum for Development Area 3 Priorsland”. In the village centre, the min no. of units would rise by 20, from 75 to 95, and the max no. of units would rise by 30, from 100 to 130. These increases would be reflected in the consequential changes to the total min and max nos. of units for Priorsland as a whole.

**Table 6.8.1** is entitled “Development Type and Quantum for Development Area 8 Tully”. In the village centre, the min no. of units would rise by 30, from 100 to 130, and the max no. of units would rise by 40, from 150 to 190. These increases would be reflected in the consequential changes to the total min and max nos. of units for Tully as a whole.

The above cited Tables 2.3, 6.1.1, 6.2.1, 6.3.1 and 6.8.1 would all be accompanied by the following note:

*Gross residential floor area includes the floor area of the individual apartments and the communal rooms and circulation areas associated directly with the residential development. It does not include the private open space/balconies associated with individual apartments.*

The textual changes are summarised below.

In the first paragraph of **Section 2.7.2**, entitled “Residential Density Range and Housing Mix”, the cited max no. of units of 8,336 would be deleted and c. 8,786 would be inserted in its place.

In the fourth paragraph of **Section 2.7.3**, entitled “Private Open Space”, reference to the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” shall be inserted prior to the reference to the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages).

In the third paragraph of **Section 5.2**, entitled “Cherrywood Way”, the cited planned residential population of c. 20,800 would be deleted and c. 23,722 would be inserted in its place.

- 3.5. **Proposed amendment 4** would entail the deletion of Specific Objective PD 4, which is one of four Specific Objectives in Section 2.7.2, entitled “Residential Density Range and Housing Mix”. This Objective states the following:

*In Res 3 and Res 4 plots, where residential development is proposed as part of mixed-use development within the town centre or three village centres, a maximum 20% of units shall comprise 1-bed units, while a maximum 40% shall be 2-bed units, and a minimum 40% of units shall be of a size to comprise of 3 or more bed units.*

In its place the following new Specific Objective PD 4 would be inserted:

*Where apartment development is proposed as part of mixed-use development in the town centre and the three village centres, the mix of apartment unit types should be in accordance with the following unit mix.*

- 10% - Studio Units (as part of a build to let development)
- 20% - 1 Bed Units
- 55% - 2 Bed Units
- 15% - 3 Bed Units

*The apartment unit mix as noted above shall allow for a range of variation to include for 20% - 30% for 1 bed units (with the reallocation of the 10% studio units), 50% - 65% for 2 bed units and 15% - 20% for 3 bed units.*

*In Res 3 and Res 4 plots the mix of apartment unit types should be in accordance with the following unit mix.*

- Not more than 20% of units shall be 1 bed units,
- A range of min 40% - max 60% shall be 2 bed units, and
- A range of min 20% - max 40% shall be of a size to comprise of 3 or more bed units.

3.6. **Proposed amendment 5** would entail the deletion of the fourth paragraph of Section 7.2, which is entitled “Sequence of Development”. This paragraph states the following:

*The one exception to this is Development Area 2 – Cherrywood Town Centre, which is included in both the First Growth Area and the Second Growth Area due to the scale of development and the mix of uses within this Development Area. The retail provision in the town centre shall be split 50/50 over the First Growth Area and the Second Growth Area to ensure that the retail provision is in line with the residential and employment catchment. The minimum number of residential units in the First Growth Area shall be permitted prior to the second 50% of retail floorspace provision being permitted.*

In its place the following new paragraph would be inserted:

*Permission for gross retail floorspace greater than 20,500 sqm will only be granted permission in accordance with the following:*

- *In tandem with permission being granted for the residential and high intensity employment floorspace in TC1, 2 and 4 in the town centre or post permission being granted for the residential and high intensity employment floorspace in TC1, 2 and 4 in the town centre.*

*At application stage, the applicant shall demonstrate how the delivery of the retail provision aligns with the delivery of the construction of the residential units and employment floorspace in TC1, 2 and 4 in the town centre.*

#### **4.0 Section 170A sub-section (2): Would the proposed amendments make a material change to the Cherrywood Planning Scheme?**

- 4.1. The Planning Authority has made an application to amend the Cherrywood Planning Scheme under Section 170A sub-section (1) of the Act. Under sub-section (2), the question arises as to whether or not the proposed amendments would make a material change to this Planning Scheme. In seeking to address this question, I will first consider these amendments themselves.
- 4.2. The proposed amendments can be sub-divided into two groups. The first group comprises the first four of these amendments, which relate to the numbers of dwellings in the proposed town and village centres and the mix of dwellings in these centres and in the higher density Res 3 and Res 4 neighbourhoods. The second one comprises the fifth of these amendments and it relates to the sequencing of retail permissions in Cherrywood town centre. Given this sub-division, I will seek to address the above cited question in relation to each of these groups in turn.
- 4.3. **The first four proposed amendments** reflect the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities. The accompanying Departmental Circular FPS1/2016 delineates, in an Appendix, the Special Planning Policy Requirements (SPPRs) that emanate from these Guidelines. Under Section 28(1C) of the Act, SPPRs are required to be applied by planning authorities and the Board in the performance of their functions.

Thus, Dun Laoghaire-Rathdown County Council has incorporated the said SPPRs into its latest County Development Plan for 2016 – 2022. I, therefore, consider that the Planning Authority, in proposing the first four amendments to the Cherrywood Planning Scheme too, is acting in accordance with Section 28(1C).

- 4.4. The first four proposed amendments would lead to an increase in the overall indicative number of dwellings of 346 or 5.91%, from 5,850 to c. 6,196, under a minimum scenario and 450 or 5.40%, from 8,336 to c. 8,786, under a maximum scenario. These increased numbers of dwellings would arise in the proposed town and village centres. While these amendments would not lead to any increase in the overall residential floor area, the increased numbers of dwellings would mean that the residential density of the proposed settlement would increase correspondingly. However, I do not consider that either the increased numbers of dwellings or the accompanying higher densities would be character changing for the town and village centres and so I do not consider that these increases *per se* would lead to a material change of the Cherrywood Planning Scheme.
- 4.5. The first four proposed amendments would lead to an increase in the projected population for Cherrywood of 2,922, from 20,800 to 23,722, i.e. 14.05%. This increase would reflect both the higher density of residential development discussed above and the opportunity afforded by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities to provide dwellings with a greater number of bedspaces than under the existing Planning Scheme. I consider that this would be a significant increase in population and so the question arises as to whether or not it would lead to a material change in the said Planning Scheme. In this respect, I consider that the capacity of the proposed amenities to cater for this increased population needs to be explored.
- 4.6. The proposed amenities for Cherrywood would include the provision of planned public open space as depicted in Map 5.1 of the Planning Scheme. This open space would comprise Class 1 Amenity Open Spaces and Class 2 Neighbourhood Plazas. As none of this space would be encroached upon for building purposes under the first four amendments, it would not be directly affected. Indirectly, the space would

be affected, due to a greater intensity of usage arising from the increased population. I will discuss this effect further below.

- 4.7. Table 5.1 of the Planning Scheme states that the Class 1 lands have a total area of 29.7 hectares. If natural green space is included in the overall amenity space that would be available, then an additional 32 hectares arises to give a total of 61.7 hectares. Given the projected population in this Scheme, this total would be equivalent to 2.966 hectares per 1,000 population. Given the increased population now envisaged, this total would be equivalent to 2.601 hectares per 1,000 population.
- 4.8. Policy OSR5 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 addresses public open space standards. This Policy refers to the parallel discussion in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), which cites a quantitative standard of between 2 and 2.5 hectares per 1,000 population for public open space. Under the existing and proposed amended Cherrywood Planning Scheme, this standard would be exceeded and so I consider that the identified greater intensity of use, arising from the proposed increase in population, would be capable of being catered for.

4.9. I recognise that amenity can be understood in a wider sense to include the amenities that the settlement would afford in terms of community, health, and educational facilities. With respect to community facilities, Section 2.3.4 of the Planning Scheme states that each village centre would have an adaptable community facility and the town centre would have a similar facility and perhaps two such facilities. With respect to health facilities, two primary care units are proposed. As each of these units would be capable of serving a population of 12,000, they would be in a position to serve the higher projected population. With respect to schools, Map 2.2 shows the provision of four primary schools and one secondary school. Given the Department of Education and Skills modular approach to school provision, I anticipate that there would be scope within the identified sites for these schools to accommodate any increased numbers of pupils resulting from the higher projected population. Accordingly, I consider that the proposed increase in population, would be capable of being catered for.

4.10. In the light of the preceding discussion, I conclude that the first four proposed amendments would not lead to a material change in the Cherrywood Planning Scheme and so they would lead only to change to this Planning Scheme that would be minor in nature.

4.11. Turning to **the proposed fifth amendment**, which seeks to replace the existing fourth paragraph of Section 7.2 with a new one that would link retail floorspace in the town centre to residential and high intensity employment floorspace in the town centre rather than to residential units in the First Growth Area.

- Specifically, the existing paragraph seeks to ensure that the provision of retail floorspace in Cherrywood town centre is split on a 50/50 basis between development of the First and Second Growth Areas. The mechanism specified for achieving this split is one whereby “The minimum number of residential units in the First Growth Area shall be permitted prior to the second 50% of retail floorspace provision being permitted.” The corollary of this mechanism is that the first 50% of retail floorspace could be permitted, and presumably built, in advance of such permission.

- The proposed replacement paragraph cites 20,500 sqm of retail floorspace, i.e. c. 50% of the max gross retail floorspace for Cherrywood town centre (40,909 sqm) cited in Table 2.3 of the Planning Scheme. This floorspace would be the threshold, beyond which any further retail floorspace permissions would only be forthcoming in conjunction with proposed, or against the backdrop of permitted, residential and high intensity employment floorspace for the majority of the town centre, i.e. quadrants TC1, 2 and 4. The corollary of this threshold is that up to 20,500 sqm of retail floorspace could be permitted, and presumably built, in advance of such permissions.

4.12. A comparison of the existing paragraph and the proposed one thus indicates that, under both paragraphs, the first 50% of retail floorspace in Cherrywood town centre could be permitted and built without reference to other uses. Thereafter, further retail floorspace in the town centre could only be permitted if, under the former paragraph, permission exists for the minimum number of residential units in the First Growth Area, or if, under the latter paragraph, permission exists or is simultaneously being sought for the residential and high intensity employment floorspace for the majority of the town centre.

- 4.15 Cherrywood town centre lies within the First Growth Area, i.e. it is a sub-set of the same. The minimum number of residential units that would be provided in the First Growth Area is 2,249<sup>3</sup>. This number is considerably in excess of the number of residential units that would be provided in the majority of the town centre, which would range between minimum of 989 and maximum of 1,242 representing 44% to 55.2% of the said figure.
- 4.16 In the light of the preceding paragraphs, I consider that the existing explicit and obligatory link between permissions for retail floorspace in the town centre in conjunction with permissions for the wider residential development of that portion of the settlement encapsulated by the First Growth Area would be lost under the proposed fifth amendment. Instead, such permissions would be linked to residential and high intensity employment permissions in the majority of the town centre alone.
- 4.17 I, therefore, consider that the proposed fifth amendment could risk a scenario wherein the town centre develops either independently of or out of step with the remainder of the First Growth Area, which comprises a significant part of the wider settlement beyond the town centre.
- 4.18 Section 6.2 of the Cherrywood Planning Scheme addresses the need for an Urban Form Development Framework (UFDF) for the town centre. The Planning Authority's submitted background paper presents a rationale for the proposed amendments to the Cherrywood Planning Scheme, including the proposed fifth amendment. Within this rationale, Section 6.2 is cited and, in particular, the identification therein of a podium option for the construction of the town centre. This option is being pursued, under the emerging UFDF, in relation to the two quadrants TC 1 and 2, which the Planning Authority envisages would be developed jointly in accordance with the imperative attendant upon podiums which is that they be constructed as a single operation. This imperative is cited as providing the impetus for the proposed fifth amendment.

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<sup>3</sup> Cherrywood town centre (TC1 – 4) 1000 units & Res2 + Res4 240 units, Domville Res2 + Res3 652, and Druids Glen Res1 + Res2 357.



4.19 The above cited impetus is elucidated by Table 6.2.2 of the Planning Scheme, under which TC 1 alone is identified as having a minimum of 26,750 sqm and a maximum of 32,000 sqm of retail floorspace. (The equivalent figures for TC 2 are 2,150 and 2,800 sqm). Thus, if permission were to be sought for a development of podium construction, incorporating all or even most of the said retail floorspace, then the existing threshold of 20,455 sqm, i.e. 50% of the total retail floorspace for the town centre of 40,909 sqm, could be exceeded. As things stand, under such a scenario, the minimum number of dwellings in the First Growth Area would need to be permitted or, as now proposed, the residential floorspace and high intensity employment floorspace for quadrants TC 1, 2, and 4 of the town centre would need to be permitted.

4.20 While I acknowledge the imperative that a podium be constructed as a single operation, I consider that this imperative would not *prima facie* necessitate overriding the existing provisions of the fourth paragraph of Section 7.2 of the Cherrywood Planning Scheme, i.e. as a podium could be constructed in advance of its full development, the proposed fifth amendment would not be critical.

4.21 Accordingly, I conclude that under the fifth amendment the town centre potentially could develop independently of or out of step with the wider settlement and so I consider that it would entail a material change to the Cherrywood Planning Scheme.

## **5 Section 170A sub-section (5): Do the proposed amendments need to be the subject of SEA and/or AA?**

5.1 Under Section 170A sub-section (5) of the Act, the proposed amendments to the Cherrywood Planning Scheme must be screened with respect to their need for Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA). The Planning Authority has submitted reports intended to inform the screening processes in these respects. I will draw upon these reports, amongst other things, in the screening that is set out below.

5.2 The Cherrywood Planning Scheme was the subject of SEA and screening for AA. The original SEA and screening for AA were undertaken on the draft Planning

Scheme, which envisaged a residential population of 25,000 in Cherrywood. Following modifications specified by the Board, the adopted Planning Scheme reduced this figure to 20,800. Under the currently proposed amendments, it would rise to 23,722, a figure that would clearly be below that cited in the original Planning Scheme that was the subject of SEA and screening for AA. The Planning Authority thus makes the point that the SEA and screening for AA already undertaken was for a larger settlement than the one now proposed. The environmental mitigation measures identified by the SEA would thus suffice for the size of settlement now envisaged.

5.3 The proposed amendments to the Cherrywood Planning Scheme are set out in full under the second section of my report. The first four of these amendments would reflect the incorporation of the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities into the Planning Scheme. Such incorporation would entail an increase in the numbers of dwellings in the proposed town and village centres of a minimum of 346 and a maximum of 450 and revisions to the mix of dwellings in these centres and higher density Res 3 and Res 4 neighbourhoods. The fifth amendment would entail revisions to the sequencing of development within the town centre, whereby retail floorspace would be permitted in conjunction with residential and high intensity employment floorspace in the town centre rather than in conjunction with dwellings in the First Growth Area, which would include the town centre and adjoining residential neighbourhoods.

5.4 I have reviewed the proposed amendments under the “Criteria for determining whether a plan or programme is likely to have significant effects on the environment”, which is set out in Schedule 2A of the Planning and Development Regulations, 2001 – 2015. Part of the last criterion refers to “Characteristics of the effects and of the area likely to be affected, having regard, in particular, to: - the effects on areas or landscapes which have a recognised national, European Union or international protection status.” Given the citation here of areas or landscapes which have

European Union protected status, I will screen the proposed amendments for AA first and then return to the screening of them for SEA.

5.5 The site, which is the subject of the Cherrywood Planning Scheme, extends over the greater part of the Cherrywood SDZ. It is not in a Natura 2000 site or near to such a site. The Planning Authority's submitted "Report to Inform AA Screening" identifies all such sites within a 15 km radius. One additional such site is the Rockabill to Dalkey Island SAC (site code 003000), which extends into Killiney Bay. The Shanganagh River runs through the northern and easternmost portions of the site and it flows into Killiney Bay further to the east. There is thus a source/pathway/receptor route between the site and this Natura 2000 site.

5.6 The qualifying interest of the aforementioned SAC are reefs and harbour porpoise and the conservation objectives for these interests are to maintain the favourable conservation condition of these interests in accordance with identified attributes and targets set out by the NPWS.

5.7 As described above, the Shanaganagh River runs through the site. For the most part, the route of this River is through lands that would be reserved for green infrastructure. At the north western extremity of the site, this route passes through lands that would be developed for commercial uses. None of these lands would be directly affected by the proposed amendments, although, as the green infrastructure would also be public open space, it would be indirectly affected by greater usage resulting from the higher population now envisaged. As discussed above, this population would still be within the figure originally envisaged for the settlement. I, therefore consider that the proposed amendments would not be likely to have any significant effect upon the conservation objectives of any Natura 2000 sites.

5.8 It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed

development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 003000, or any other European site, in view of the site's conservation objectives, and a Stage 2 AA is not therefore required.

5.9 In the light of the foregoing conclusion and in the absence of any other national or international areas or landscapes with protected status that would be effected by the proposed amendments, I consider that the ecological criterion of Schedule 2A to the aforementioned Regulations would be satisfied. I have reviewed the other criterion under this Schedule and I consider that they, too, would be satisfied. Accordingly, I conclude that the proposed amendments would not be likely to have significant effects on the environment and so a SEA of these amendments is not necessary.

5.10 Thus, under Section 170A sub-section (5), neither SEA nor AA is necessary for the proposed amendments to the Cherrywood Planning Scheme.

## **6 Conclusion**

In my report I have firstly addressed the question raised by Section 170A sub-section (2) of the Planning and Development Act, 2000 – 2015, as to whether or not the proposed amendments lead to a material change to the Cherrywood Planning Scheme. I have concluded that, whereas the first four of these amendments would not, the fifth amendment would. I reached this latter conclusion on the basis that the proposed fifth amendment would link permission for the second 50% of retail floorspace in the town centre to permission for residential and high intensity employment space in this centre rather than to permission for all the dwellings in the First Growth Area of the wider settlement. Thus, this amendment could risk a scenario wherein the town centre proceeds independently of or out of step with this wider settlement.

I have secondly addressed the question raised by sub-section (5) as to whether or not the proposed amendments to the Cherrywood Planning Scheme would need to be the subject of SEA and/or AA. I have concluded that they would not.

In the light of my answers to these two questions, the Board is in a position to approve, under sub-sections (4)(a) & (11), the first four of the proposed amendments and so the Planning Authority should be notified of the same. As the proposed fifth amendment would lead to a material change to the Cherrywood Planning Scheme, under sub-section (7), the Planning Authority is required to undertake a notification and consultation exercise as set out in this sub-section. Thereafter, under sub-section (8), the planning authority shall prepare a report on the submissions and observations received as a consequence of this exercise. The said report shall be prepared in accordance with the provisions set out in sub-section (9). The Planning Authority should be notified accordingly.

## **7 Recommendation**

That, under Section 170A sub-section (4)(a) & (11) of the Planning and Development Act, 2000 (as amended), the Planning Authority be notified of the Board's approval of

the making of the first four proposed amendments to the Cherrywood Planning Scheme.

That, under Section 170A sub-section (7) of the Planning and Development Act, 2000 (as amended), the Planning Authority be notified of the Board's decision, under sub-section (2) that the proposed fifth amendment would constitute the making of a material change to the Cherrywood Planning Scheme and so the provisions of sub-section (7) and the consequent provisions of sub-sections (8) & (9) shall be complied with.

The latter notification shall reflect the provisions of sub-section (7) as follows:

Dun Laoghaire-Rathdown County Council shall (a) send notice and copies of the proposed fifth amendment of the Cherrywood Planning Scheme to the Minister and the prescribed authorities, and (b) publish a notice of that proposed amendment in one or more newspapers circulating in the area concerned, and this notice shall state:

- (i) The reason or reasons for the proposed amendment,
- (ii) That a copy of the proposed amendment may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and
- (iii) That written submissions or observations with respect to the proposed amendment may be made to Dun Laoghaire-Rathdown County Council within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed amendment,

And the copy of the proposed amendment shall be made available for inspection accordingly.

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Hugh D. Morrison  
Planning Inspector

13<sup>th</sup> April 2017